

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 29TH MAY 2007 / 8TH JYAISHTA 1929

Crl.MC.No. 1657 of 2007()

LP.36/2001 of JUDL.MAGISTRATE OF FIRST CLASS, KAYAMKULAM

.....

PETITIONER: IST ACCUSED

KOMALAN, VASCO, CHERAVALLY,
KAYAMKULAM.

BY ADV. SRI.P.SREEKUMAR
SRI.K.S.MANU (PUNUKKONNOOR)

RESPONDENTS: COMPLAINANT

1. INSPECTOR CBCID, KOLLAM.
2. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY P.P. SRI.C.K. SURESH.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ALONG WITH CRMC NOS.1642/07 AND OTHER CONNECTED CASES ON
29/05/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

CRL.M.C.NOs.1657, 1642 & 1643 OF 2007

Dated this the 29th day of May, 2007

ORDER

The common petitioner faces indictment in three different prosecutions – all under Sec.420 of the IPC. The petitioner has not appeared before the court concerned and consequently he faces the unenviable predicament of warrants of arrest issued by the learned Magistrate chasing him. The cases have been transferred to the list of Long Pending Cases and they are pending in such list from 1992 and 2001.

2. According to the petitioner, he is absolutely innocent. His failure/omission to appear before the learned Magistrate earlier was on account of reasons beyond his control. He is willing to surrender before the learned Magistrate. He is also willing to co-operate with the court. But he apprehends that if he surrenders before the learned Magistrate and applies for bail, his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and

CRL.M.C.NOs.1657, 1642 & 1643 OF 2007 - 2 :-

expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

4. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself, unless compelling

CRL.M.C.NOs.1657, 1642 & 1643 OF 2007 - 3 :-

and exceptional reasons are there.

5. Hand over a copy of this order to the learned counsel for the petitioner.

Sd/-

(R. BASANT, JUDGE)

Nan/

//true copy//

P.S. to Judge